

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
(Alpine, Texas)) MB Docket No. 02-239
) RM-10529
)
(Clayton, Oklahoma)) MB Docket No. 02-240
) RM-10530
)
(Guthrie, Texas) MB Docket No. 02-241
) RM-10531
)
(Hebbronville, Texas)) MB Docket No. 02-242
) RM-10532
)
(Mertzson, Texas)) MB Docket No. 02-243
) RM-10533
)
(Premont, Texas)) MB Docket No. 02-244
) RM-10534
)
(Roaring Springs, Texas)) MB Docket No. 02-245
) RM-10544
)
(Rocksprings, Texas)) MB Docket No. 02-246
) RM-10535
)
(Sanderson, Texas)) MB Docket No. 02-247
) RM-10536
)
(Smiley, Texas)) MB Docket No. 02-248
) RM-10537
)
(Thomas, Oklahoma)) MB Docket No. 02-249
) RM-10538
)

NOTICE OF PROPOSED RULE MAKING

Adopted: August 14, 2002

Released: August 30, 2002

Comment Date: October 21, 2002

Reply Comment Date: November 5, 2002

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. The petitioner for each proposal, has stated that it will apply for each requested channel, if allotted. Each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rule Making*. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-239; RM-10529

Petitioner: Linda Crawford

3500 Maple Ave., #1320
Dallas, Texas 75219

Proposal: Allot Channel 293C at Alpine, Texas, as that community's second FM broadcast station and third local aural transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Alpine, Texas	224A	224A, 293C

Coordinates: 30-21-36 NL and 103-39-36 WL

¹ Alpine is already served by Station KALP(FM), Channel 224A, and AM Station KVLFF, 1240 kHz..

Additional Information: This allotment is at the center city coordinates for Alpine, Texas. Since Alpine is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican Government has been requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

B. MB Docket No. 02-240; RM-10530

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 241A at Clayton, Oklahoma, as that community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Clayton, Oklahoma	-----	241A

Coordinates: 34-27-28 NL and 95-22-01 WL

Additional Information: This allotment requires a site restriction of 14.7 kilometers (9.1 miles) south of Clayton, Oklahoma. It appears that there is a significant terrain profile obstruction in the radial path between the transmitter site and the city of Clayton. Petitioner is requested to demonstrate how 70 dBu coverage will be provided over the entire city of Clayton, as required by Section 73.315 of the Commission's Rules.

FCC Contact: R. Barthen Gorman (202) 418-2180

C. MB Docket No. 02-241; RM-10531

Petitioner: Linda Crawford
3500 Maple Ave., #1320
Dallas, Texas 75219

² Petitioner asserts that Clayton is an incorporated city with its own mayor, volunteer fire department, post office and Chamber of Commerce. The 2000 U.S. Census lists Clayton's population at 719 persons.

Proposal: Allot Channel 252A to Guthrie, Texas, as that community's first local aural transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Guthrie, Texas	-----	252A

Coordinates: 33-41-26 NL and 100-23-15 WL.

Additional Information: This allotment requires a site restriction of 9.8 kilometers (6.1 miles) northwest of Guthrie, Texas.

FCC Contact: R. Barthen Gorman (202) 418-2180

D. MB Docket No. 02-242; RM-10532

Petitioner: Linda Crawford
3500 Maple Ave., #1320
Dallas, Texas 75219

Proposal: Allot Channel 232A at Hebronville, Texas, as that community's third local aural transmission service.⁴

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hebronville, Texas	269A	269A, 232A

Coordinates: 27-23-18 NL and 98-44-26 WL

Additional Information: This allotment requires a site restriction of 11.2 kilometers (7.0 miles) northwest of Hebronville, Texas. Since Hebronville is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican Government has been requested for this allotment.

³ Petitioner states that Guthrie, which is the County Seat of King County, has its own judge, school system, post office, volunteer fire department, and a number of local churches. The 1990 U.S. Census lists the population of Guthrie at 190 persons.

⁴ Hebronville is currently served by Station KAZF(FM), Channel 220A, and Station KEKO(FM), Channel 269A.

FCC Contact: R. Barthen Gorman (202) 418-2180

E. MB Docket No. 02-243; RM-10533

Petitioner: Linda Crawford

3500 Maple Ave., #1320
Dallas, Texas 75210

Proposal: Allot Channel 278C2 to Mertzon, Texas, as the community’s second local aural transmission service.⁵

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Mertzon, Texas	266A	266A, 278C2

Coordinates: 31-10-09 NL and 100-51-41 WL.

Additional Information: This allotment requires a site restriction of 10.8 kilometers (6.7 miles) southwest of Mertzon, Texas. Since Mertzon is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican Government has been requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

F. MB Docket No. 02-244; RM-10534

Petitioner: Linda Crawford

3500 Maple Ave., #1320
Dallas, Texas 75210

Proposal: Allot Channel 287A to Premont, Texas, as the community’s second local aural transmission service.⁶

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Premont, Texas	264C3	264C3, 287A

⁵ Mertzon already has a vacant commercial FM channel, Channel 266A.

⁶ Premont is already served by Station KMFM(FM), Channel 264C3.

Coordinates: 27-14-13 NL and 98-10-27 WL.

Additional Information: This allotment requires a site restriction of 14.4 kilometers (8.9 miles) south of Premont, Texas. Since Premont is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican Government has been requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

G. MB Docket No. 02-245; RM-10544

Petitioner: Linda Crawford

3500 Maple Ave., #1320
Dallas, Texas 75210

Proposal: Allot Channel 276C3 to Roaring Springs, Texas, as the community's first local aural transmission service.⁷

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Roaring Springs, Texas	-----	276C3

Coordinates: 33-55-44 NL and 100-46-48 WL.

Additional Information: This allotment requires a site restriction of 7.8 kilometers (4.9 miles) northeast of Roaring Springs, Texas.

FCC Contact: R. Barthen Gorman (202) 418-2180

H. MB Docket No. 02-246; RM-10535

Petitioner: Charles Crawford

4553 Bordeaux Ave.
Dallas, Texas 75205

⁷ Petitioner claims that Roaring Springs is an incorporated city with its own mayor, post office, volunteer fire department and city hall. The 2000 U.S. Census lists the population of Roaring Springs at 265 persons.

Proposal: Allot Channel 291A to Rocksprings, Texas, as the community's fourth local aural transmission service.⁸

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rocksprings, Texas	223A, 295C2	223A, 295C2, 291A

Coordinates: 29-57-03 NL and 100-20-02 WL.

Additional Information: This allotment requires a site restriction of 14.4 kilometers (8.9 miles) southwest of Rocksprings, Texas. Since Rocksprings is located within 320 kilometers of the the U.S.-Mexico border, concurrence of the Mexican Government will be requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

I. MB Docket No. 02-247; RM-10536

Petitioner: Linda Crawford

3500 Maple Ave., #1320
Dallas, Texas 75219

Proposal: Allot Channel 286C2 to Sanderson, Texas, as the community's first local FM transmission service.⁹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sanderson, Texas	-----	286C2

Coordinates: 30-03-18 NL and 102-35-01 WL.

Additional Information: This allotment requires a site restriction 20.6 kilometers (12.8 miles) southwest of Sanderson, Texas. Since Sanderson is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government has been requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

⁸ Rocksprings has two commercial FM allotments: Channel 223A and Channel 295C2. In addition, a *Report and Order in MM Docket No. 01-279* approving the allotment of Channel 235C3 to Rocksprings was adopted on July 17, 2002.

⁹ Petitioner asserts that Sanderson is a Census Designated Place with its own post office, fire department, school system and a number of local churches. The 2000 U.S. Census lists the population of Sanderson at 861 persons.

J. MB Docket No. 02-248; RM-10537

Petitioner: Linda Crawford.

3500 Maple Ave., #1320
Dallas, Texas 75219

Proposal: Allot Channel 280A at Smiley, Texas, as that community's first local aural transmission service.¹⁰

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Smiley, Texas	-----	280A

Coordinates: 29-14-17 NL and 97-32-07 WL

Additional Information: This allotment requires a site restriction of 10.3 kilometers (6.4 miles) east of Smiley, Texas. Since Smiley is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican Government will be requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

K. MB Docket No. 02-249; RM-10538

Petitioner: Robert Fabian

4 Hickory Crossing Lane
Argyle, Texas 76226

Proposal: Allot Channel 288A to Thomas, Oklahoma, as the community's first local aural transmission service.¹¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
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¹⁰ Petitioner claims that Smiley is an incorporated town with its own mayor, post office, fire department, and city hall. The 2000 U.S. Census lists the population of Smiley at 463 persons.

¹¹ Petitioner states that Thomas is an incorporated community, with its own mayor, post office, fire department, school district, and a number of local churches. The 2000 U.S. Census lists the population of Thomas at 1,238 persons.

Thomas, Oklahoma

288A

Coordinates: 35-49-46 NL and 98-45-09 WL.

Additional Information: This allotment requires a site restriction of 9.2 kilometers (5.7 miles) north of Thomas, Oklahoma.

FCC Contact: R. Barthen Gorman (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **October 21, 2002**, and reply comments on or before **November 5, 2002**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail.) The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.¹²

7. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice

¹² See *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*. 46 FR 11549 (February 9, 1981).

of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply

comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW; TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 Twelfth Street, SW, Washington, D.C.